



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4383

by Rep. John D'Amico

SYNOPSIS AS INTRODUCED:

625 ILCS 5/4-203	from Ch. 95 1/2, par. 4-203
625 ILCS 5/11-1302	from Ch. 95 1/2, par. 11-1302
625 ILCS 5/11-1431	

Amends the Illinois Vehicle Code. Provides that any tow initiated by a law enforcement agency or officer shall be communicated by the law enforcement agency directly to the tow company by phone or computer. Provides that law enforcement officers shall allow the owner of a disabled vehicle to specify the tow company of the owner's choice if the vehicle requires towing but is not, in the opinion of the officer, obstructing traffic.

LRB098 17503 MLW 52612 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Sections 4-203, 11-1302, and 11-1431 as follows:

6 (625 ILCS 5/4-203) (from Ch. 95 1/2, par. 4-203)

7 Sec. 4-203. Removal of motor vehicles or other vehicles;
8 Towing or hauling away.

9 (a) When a vehicle is abandoned, or left unattended, on a
10 toll highway, interstate highway, or expressway for 2 hours or
11 more, its removal by a towing service may be authorized by a
12 law enforcement agency having jurisdiction.

13 (b) When a vehicle is abandoned on a highway in an urban
14 district 10 hours or more, its removal by a towing service may
15 be authorized by a law enforcement agency having jurisdiction.

16 (c) When a vehicle is abandoned or left unattended on a
17 highway other than a toll highway, interstate highway, or
18 expressway, outside of an urban district for 24 hours or more,
19 its removal by a towing service may be authorized by a law
20 enforcement agency having jurisdiction.

21 (d) When an abandoned, unattended, wrecked, burned or
22 partially dismantled vehicle is creating a traffic hazard
23 because of its position in relation to the highway or its

1 physical appearance is causing the impeding of traffic, its
2 immediate removal from the highway or private property adjacent
3 to the highway by a towing service may be authorized by a law
4 enforcement agency having jurisdiction. If the owner of a
5 disabled vehicle is present at the scene of the disabled
6 vehicle and, in the officer's opinion, the disabled vehicle is
7 not obstructing traffic, the officer shall allow the owner of
8 the vehicle to specify which towing service the owner would
9 like to relocate the disabled vehicle. If the owner chooses not
10 to specify a towing service, the officer may select a towing
11 service for the vehicle. Any tow initiated by a law enforcement
12 agency or officer shall be communicated by the law enforcement
13 agency directly to the tow company by phone or computer.

14 (e) Whenever a peace officer reasonably believes that a
15 person under arrest for a violation of Section 11-501 of this
16 Code or a similar provision of a local ordinance is likely,
17 upon release, to commit a subsequent violation of Section
18 11-501, or a similar provision of a local ordinance, the
19 arresting officer shall have the vehicle which the person was
20 operating at the time of the arrest impounded for a period of
21 not more than 12 hours after the time of arrest. However, such
22 vehicle may be released by the arresting law enforcement agency
23 prior to the end of the impoundment period if:

24 (1) the vehicle was not owned by the person under
25 arrest, and the lawful owner requesting such release
26 possesses a valid operator's license, proof of ownership,

1 and would not, as determined by the arresting law
2 enforcement agency, indicate a lack of ability to operate a
3 motor vehicle in a safe manner, or who would otherwise, by
4 operating such motor vehicle, be in violation of this Code;
5 or

6 (2) the vehicle is owned by the person under arrest,
7 and the person under arrest gives permission to another
8 person to operate such vehicle, provided however, that the
9 other person possesses a valid operator's license and would
10 not, as determined by the arresting law enforcement agency,
11 indicate a lack of ability to operate a motor vehicle in a
12 safe manner or who would otherwise, by operating such motor
13 vehicle, be in violation of this Code.

14 (e-5) Whenever a registered owner of a vehicle is taken
15 into custody for operating the vehicle in violation of Section
16 11-501 of this Code or a similar provision of a local ordinance
17 or Section 6-303 of this Code, a law enforcement officer may
18 have the vehicle immediately impounded for a period not less
19 than:

20 (1) 24 hours for a second violation of Section 11-501
21 of this Code or a similar provision of a local ordinance or
22 Section 6-303 of this Code or a combination of these
23 offenses; or

24 (2) 48 hours for a third violation of Section 11-501 of
25 this Code or a similar provision of a local ordinance or
26 Section 6-303 of this Code or a combination of these

1 offenses.

2 The vehicle may be released sooner if the vehicle is owned
3 by the person under arrest and the person under arrest gives
4 permission to another person to operate the vehicle and that
5 other person possesses a valid operator's license and would
6 not, as determined by the arresting law enforcement agency,
7 indicate a lack of ability to operate a motor vehicle in a safe
8 manner or would otherwise, by operating the motor vehicle, be
9 in violation of this Code.

10 (f) Except as provided in Chapter 18a of this Code, the
11 owner or lessor of privately owned real property within this
12 State, or any person authorized by such owner or lessor, or any
13 law enforcement agency in the case of publicly owned real
14 property may cause any motor vehicle abandoned or left
15 unattended upon such property without permission to be removed
16 by a towing service without liability for the costs of removal,
17 transportation or storage or damage caused by such removal,
18 transportation or storage. The towing or removal of any vehicle
19 from private property without the consent of the registered
20 owner or other legally authorized person in control of the
21 vehicle is subject to compliance with the following conditions
22 and restrictions:

23 1. Any towed or removed vehicle must be stored at the
24 site of the towing service's place of business. The site
25 must be open during business hours, and for the purpose of
26 redemption of vehicles, during the time that the person or

1 firm towing such vehicle is open for towing purposes.

2 2. The towing service shall within 30 minutes of
3 completion of such towing or removal, notify the law
4 enforcement agency having jurisdiction of such towing or
5 removal, and the make, model, color and license plate
6 number of the vehicle, and shall obtain and record the name
7 of the person at the law enforcement agency to whom such
8 information was reported.

9 3. If the registered owner or legally authorized person
10 entitled to possession of the vehicle shall arrive at the
11 scene prior to actual removal or towing of the vehicle, the
12 vehicle shall be disconnected from the tow truck and that
13 person shall be allowed to remove the vehicle without
14 interference, upon the payment of a reasonable service fee
15 of not more than one half the posted rate of the towing
16 service as provided in paragraph 6 of this subsection, for
17 which a receipt shall be given.

18 4. The rebate or payment of money or any other valuable
19 consideration from the towing service or its owners,
20 managers or employees to the owners or operators of the
21 premises from which the vehicles are towed or removed, for
22 the privilege of removing or towing those vehicles, is
23 prohibited. Any individual who violates this paragraph
24 shall be guilty of a Class A misdemeanor.

25 5. Except for property appurtenant to and obviously a
26 part of a single family residence, and except for instances

1 where notice is personally given to the owner or other
2 legally authorized person in control of the vehicle that
3 the area in which that vehicle is parked is reserved or
4 otherwise unavailable to unauthorized vehicles and they
5 are subject to being removed at the owner or operator's
6 expense, any property owner or lessor, prior to towing or
7 removing any vehicle from private property without the
8 consent of the owner or other legally authorized person in
9 control of that vehicle, must post a notice meeting the
10 following requirements:

11 a. Except as otherwise provided in subparagraph
12 a.1 of this subdivision (f)5, the notice must be
13 prominently placed at each driveway access or curb cut
14 allowing vehicular access to the property within 5 feet
15 from the public right-of-way line. If there are no
16 curbs or access barriers, the sign must be posted not
17 less than one sign each 100 feet of lot frontage.

18 a.1. In a municipality with a population of less
19 than 250,000, as an alternative to the requirement of
20 subparagraph a of this subdivision (f)5, the notice for
21 a parking lot contained within property used solely for
22 a 2-family, 3-family, or 4-family residence may be
23 prominently placed at the perimeter of the parking lot,
24 in a position where the notice is visible to the
25 occupants of vehicles entering the lot.

26 b. The notice must indicate clearly, in not less

1 than 2 inch high light-reflective letters on a
2 contrasting background, that unauthorized vehicles
3 will be towed away at the owner's expense.

4 c. The notice must also provide the name and
5 current telephone number of the towing service towing
6 or removing the vehicle.

7 d. The sign structure containing the required
8 notices must be permanently installed with the bottom
9 of the sign not less than 4 feet above ground level,
10 and must be continuously maintained on the property for
11 not less than 24 hours prior to the towing or removing
12 of any vehicle.

13 6. Any towing service that tows or removes vehicles and
14 proposes to require the owner, operator, or person in
15 control of the vehicle to pay the costs of towing and
16 storage prior to redemption of the vehicle must file and
17 keep on record with the local law enforcement agency a
18 complete copy of the current rates to be charged for such
19 services, and post at the storage site an identical rate
20 schedule and any written contracts with property owners,
21 lessors, or persons in control of property which authorize
22 them to remove vehicles as provided in this Section. The
23 towing and storage charges, however, shall not exceed the
24 maximum allowed by the Illinois Commerce Commission under
25 Section 18a-200.

26 7. No person shall engage in the removal of vehicles

1 from private property as described in this Section without
2 filing a notice of intent in each community where he
3 intends to do such removal, and such notice shall be filed
4 at least 7 days before commencing such towing.

5 8. No removal of a vehicle from private property shall
6 be done except upon express written instructions of the
7 owners or persons in charge of the private property upon
8 which the vehicle is said to be trespassing.

9 9. Vehicle entry for the purpose of removal shall be
10 allowed with reasonable care on the part of the person or
11 firm towing the vehicle. Such person or firm shall be
12 liable for any damages occasioned to the vehicle if such
13 entry is not in accordance with the standards of reasonable
14 care.

15 10. When a vehicle has been towed or removed pursuant
16 to this Section, it must be released to its owner or
17 custodian within one half hour after requested, if such
18 request is made during business hours. Any vehicle owner or
19 custodian or agent shall have the right to inspect the
20 vehicle before accepting its return, and no release or
21 waiver of any kind which would release the towing service
22 from liability for damages incurred during the towing and
23 storage may be required from any vehicle owner or other
24 legally authorized person as a condition of release of the
25 vehicle. A detailed, signed receipt showing the legal name
26 of the towing service must be given to the person paying

1 towing or storage charges at the time of payment, whether
2 requested or not.

3 This Section shall not apply to law enforcement,
4 firefighting, rescue, ambulance, or other emergency vehicles
5 which are marked as such or to property owned by any
6 governmental entity.

7 When an authorized person improperly causes a motor vehicle
8 to be removed, such person shall be liable to the owner or
9 lessee of the vehicle for the cost or removal, transportation
10 and storage, any damages resulting from the removal,
11 transportation and storage, attorney's fee and court costs.

12 Any towing or storage charges accrued shall be payable by
13 the use of any major credit card, in addition to being payable
14 in cash.

15 11. Towing companies shall also provide insurance
16 coverage for areas where vehicles towed under the
17 provisions of this Chapter will be impounded or otherwise
18 stored, and shall adequately cover loss by fire, theft or
19 other risks.

20 Any person who fails to comply with the conditions and
21 restrictions of this subsection shall be guilty of a Class C
22 misdemeanor and shall be fined not less than \$100 nor more than
23 \$500.

24 (g) (1) When a vehicle is determined to be a hazardous
25 dilapidated motor vehicle pursuant to Section 11-40-3.1 of the
26 Illinois Municipal Code or Section 5-12002.1 of the Counties

1 Code, its removal and impoundment by a towing service may be
2 authorized by a law enforcement agency with appropriate
3 jurisdiction.

4 (2) When a vehicle removal from either public or private
5 property is authorized by a law enforcement agency, the owner
6 of the vehicle shall be responsible for all towing and storage
7 charges.

8 (3) Vehicles removed from public or private property and
9 stored by a commercial vehicle relocater or any other towing
10 service authorized by a law enforcement agency in compliance
11 with this Section and Sections 4-201 and 4-202 of this Code, or
12 at the request of the vehicle owner or operator, shall be
13 subject to a possessor lien for services pursuant to the Labor
14 and Storage Lien (Small Amount) Act. The provisions of Section
15 1 of that Act relating to notice and implied consent shall be
16 deemed satisfied by compliance with Section 18a-302 and
17 subsection (6) of Section 18a-300. In no event shall such lien
18 be greater than the rate or rates established in accordance
19 with subsection (6) of Section 18a-200 of this Code. In no
20 event shall such lien be increased or altered to reflect any
21 charge for services or materials rendered in addition to those
22 authorized by this Act. Every such lien shall be payable by use
23 of any major credit card, in addition to being payable in cash.

24 (4) Any personal property belonging to the vehicle owner in
25 a vehicle subject to a lien under this subsection (g) shall
26 likewise be subject to that lien, excepting only: child

1 restraint systems as defined in Section 4 of the Child
2 Passenger Protection Act and other child booster seats;
3 eyeglasses; food; medicine; perishable property; any
4 operator's licenses; any cash, credit cards, or checks or
5 checkbooks; any wallet, purse, or other property containing any
6 operator's license or other identifying documents or
7 materials, cash, credit cards, checks, or checkbooks; and any
8 personal property belonging to a person other than the vehicle
9 owner if that person provides adequate proof that the personal
10 property belongs to that person. The spouse, child, mother,
11 father, brother, or sister of the vehicle owner may claim
12 personal property excepted under this paragraph (4) if the
13 person claiming the personal property provides the commercial
14 vehicle relocater or towing service with the authorization of
15 the vehicle owner.

16 (5) This paragraph (5) applies only in the case of a
17 vehicle that is towed as a result of being involved in an
18 accident. In addition to the personal property excepted under
19 paragraph (4), all other personal property in a vehicle subject
20 to a lien under this subsection (g) is exempt from that lien
21 and may be claimed by the vehicle owner if the vehicle owner
22 provides the commercial vehicle relocater or towing service
23 with proof that the vehicle owner has an insurance policy
24 covering towing and storage fees. The spouse, child, mother,
25 father, brother, or sister of the vehicle owner may claim
26 personal property in a vehicle subject to a lien under this

1 subsection (g) if the person claiming the personal property
2 provides the commercial vehicle relocater or towing service
3 with the authorization of the vehicle owner and proof that the
4 vehicle owner has an insurance policy covering towing and
5 storage fees. The regulation of liens on personal property and
6 exceptions to those liens in the case of vehicles towed as a
7 result of being involved in an accident are exclusive powers
8 and functions of the State. A home rule unit may not regulate
9 liens on personal property and exceptions to those liens in the
10 case of vehicles towed as a result of being involved in an
11 accident. This paragraph (5) is a denial and limitation of home
12 rule powers and functions under subsection (h) of Section 6 of
13 Article VII of the Illinois Constitution.

14 (6) No lien under this subsection (g) shall: exceed \$2,000
15 in its total amount; or be increased or altered to reflect any
16 charge for services or materials rendered in addition to those
17 authorized by this Act.

18 (h) Whenever a peace officer issues a citation to a driver
19 for a violation of subsection (a) of Section 11-506 of this
20 Code, the arresting officer may have the vehicle which the
21 person was operating at the time of the arrest impounded for a
22 period of 5 days after the time of arrest. An impounding agency
23 shall release a motor vehicle impounded under this subsection
24 (h) to the registered owner of the vehicle under any of the
25 following circumstances:

26 (1) If the vehicle is a stolen vehicle; or

1 (2) If the person ticketed for a violation of
2 subsection (a) of Section 11-506 of this Code was not
3 authorized by the registered owner of the vehicle to
4 operate the vehicle at the time of the violation; or

5 (3) If the registered owner of the vehicle was neither
6 the driver nor a passenger in the vehicle at the time of
7 the violation or was unaware that the driver was using the
8 vehicle to engage in street racing; or

9 (4) If the legal owner or registered owner of the
10 vehicle is a rental car agency; or

11 (5) If, prior to the expiration of the impoundment
12 period specified above, the citation is dismissed or the
13 defendant is found not guilty of the offense.

14 (Source: P.A. 96-1274, eff. 7-26-10; 96-1506, eff. 1-27-11;
15 97-779, eff. 7-13-12.)

16 (625 ILCS 5/11-1302) (from Ch. 95 1/2, par. 11-1302)

17 Sec. 11-1302. Officers authorized to remove vehicles.

18 (a) Whenever any police officer finds a vehicle in
19 violation of any of the provisions of Section 11-1301 such
20 officer is hereby authorized to move such vehicle, or require
21 the driver or other person in charge of the vehicle to move the
22 same, to a position off the roadway. If the owner of a disabled
23 vehicle is present at the scene of the disabled vehicle and, in
24 the officer's opinion, the disabled vehicle is not obstructing
25 traffic, the officer shall allow the owner of the vehicle to

1 specify which towing service the owner would like to relocate
2 the disabled vehicle. If the owner chooses not to specify a
3 towing service, the officer may select a towing service for the
4 vehicle. Any tow initiated by a law enforcement agency or
5 officer shall be communicated by the law enforcement agency
6 directly to the tow company by phone or computer.

7 (b) Any police officer is hereby authorized to remove or
8 cause to be removed to a place of safety any unattended vehicle
9 illegally left standing upon any highway, bridge, causeway, or
10 in a tunnel, in such a position or under such circumstances as
11 to obstruct the normal movement of traffic.

12 Whenever the Department finds an abandoned or disabled
13 vehicle standing upon the paved or main-traveled part of a
14 highway, which vehicle is or may be expected to interrupt the
15 free flow of traffic on the highway or interfere with the
16 maintenance of the highway, the Department is authorized to
17 move the vehicle to a position off the paved or improved or
18 main-traveled part of the highway.

19 (c) Any police officer is hereby authorized to remove or
20 cause to be removed to the nearest garage or other place of
21 safety any vehicle found upon a highway when:

22 1. report has been made that such vehicle has been
23 stolen or taken without the consent of its owner, or

24 2. the person or persons in charge of such vehicle are
25 unable to provide for its custody or removal, or

26 3. the person driving or in control of such vehicle is

1 arrested for an alleged offense for which the officer is
2 required by law to take the person arrested before a proper
3 magistrate without unnecessary delay, or

4 4. the registration of the vehicle has been suspended,
5 cancelled, or revoked.

6 (Source: P.A. 97-743, eff. 1-1-13; 98-463, eff. 8-16-13.)

7 (625 ILCS 5/11-1431)

8 Sec. 11-1431. Solicitations at accident or disablement
9 scene prohibited. A tower, as defined by Section 1-205.2 of
10 this Code, or an employee or agent of a tower may not: (i) stop
11 at the scene of a motor vehicle accident or at or near a
12 damaged or disabled vehicle for the purpose of soliciting the
13 owner or operator of the damaged or disabled vehicle to enter
14 into a towing service transaction; or (ii) stop at the scene of
15 an accident or at or near a damaged or disabled vehicle unless
16 called to the location by a law enforcement officer, the
17 Illinois Department of Transportation, the Illinois State Toll
18 Highway Authority, a local agency having jurisdiction over the
19 highway, or the owner or operator of the damaged or disabled
20 vehicle. Any tow initiated by a law enforcement agency or
21 officer shall be communicated by the law enforcement agency
22 directly to the tow company by phone or computer. This Section
23 shall not apply to employees of the Department, the Illinois
24 State Toll Highway Authority, or local agencies when engaged in
25 their official duties. Nothing in this Section shall prevent a

1 tower from stopping at the scene of a motor vehicle accident or
2 at or near a damaged or disabled vehicle if the owner or
3 operator signals the tower for assistance from the location of
4 the motor vehicle accident or damaged or disabled vehicle.

5 (Source: P.A. 96-1376, eff. 7-29-10.)